

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass
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## Estimated Cash Receipts

Agency Name	2003-05		2005-07		2007-09	
	GF- State	Total	GF- State	Total	GF- State	Total
<b>Total \$</b>						

Local Gov. Courts *	Non-zero but indeterminate cost. Please see discussion.					
Local Gov. Other **						
Local Gov. Total						

## Estimated Expenditures

Agency Name	2003-05			2005-07			2007-09		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Administrator for the Courts	Non-zero but indeterminate cost. Please see discussion.								
Utilities and Transportation Commission	.0	0	10,000	.0	0	10,000	.0	0	10,000
Department of Labor and Industries	5.0	211,680	529,200	5.0	196,180	490,450	5.0	196,180	490,450
Military Department	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Transportation	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.2	117,712	235,424	.2	117,190	234,380	.2	117,190	234,380
Department of Fish and Wildlife	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	2.6	264,000	322,000	2.6	264,000	322,000	2.6	264,000	322,000
Department of Agriculture	1.0	780,576	780,576	1.0	780,576	780,576	1.0	780,576	780,576
<b>Total</b>	8.8	\$1,373,968	\$1,877,200	8.8	\$1,357,946	\$1,837,406	8.8	\$1,357,946	\$1,837,406

Local Gov. Courts *	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Other **	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Total									

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<b>Prepared by:</b> Garry Austin, OFM	<b>Phone:</b> 360-902-0564	<b>Date Published:</b> Final 3/ 8/2003
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 055-Office of Administrator for Courts
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**Part I: Estimates**

No Fiscal Impact

**Estimated Cash Receipts to:**

**Non-zero but indeterminate cost. Please see discussion.**

**Estimated Expenditures from:**

**Non-zero but indeterminate cost. Please see discussion.**

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Julia Appel	Phone: (360) 705-5229	Date: 02/21/2003
Agency Approval: Janet McLane	Phone: (360) 705-5305	Date: 02/25/2003
OFM Review: Garry Austin	Phone: 360-902-0564	Date: 02/25/2003

## **Part II: Narrative Explanation**

### **II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts**

Sec. 3. of this bill amends 9A.52.070, criminal trespass in the first degree.

The new language states: "...a state public official or employee of the state 'enters or remains unlawfully' under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in a building..." and exceptions are listed.

Sec. 4. of this bill amends 9A.52.080, criminal trespass in the second degree.

The new language states: "...a state public official or employee of the state 'enters or remains unlawfully' under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in or upon premises of another..." and exceptions are listed.

### **II. B - Cash Receipts Impact**

### **II. C - Expenditures**

It is possible under this bill that additional gross misdemeanor and misdemeanor charges will be filed for the crimes of criminal trespass first and second degree. This will have an impact on the Washington courts, but that impact is unknown as it is not possible to estimate how many charges might be filed.

## **Part III: Expenditure Detail**

## **Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 215-Utilities and Transportation Comm
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**Part I: Estimates**

No Fiscal Impact

**Estimated Cash Receipts to:**

<b>FUND</b>					
<b>Total \$</b>					

**Estimated Expenditures from:**

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.0	0.0	0.0	0.0	0.0
<b>Fund</b>					
Public Service Revolving Account-State 111-1	5,000	5,000	10,000	10,000	10,000
<b>Total \$</b>	5,000	5,000	10,000	10,000	10,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Kim Rogers	Phone: 360-664-1153	Date: 03/04/2003
Agency Approval: Barbra Weigel	Phone: 360-664-1157	Date: 03/05/2003
OFM Review: Deborah Feinstein	Phone: 360-902-0614	Date: 03/05/2003

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 3(2) and 4(2) of the act says that public officials or employees that enter or remain unlawfully on private property are subject to criminal trespass unless it's necessary for them to:

- a) respond to a fire or medical emergency or
- b) be there acting under a court order or warrant or
- c) be there in the capacity as a law enforcement officer or
- d) be there acting under the express statutory authority granted by this code.

One issue raised by the bill is whether regulatory staff (pipeline and rail) would fall within the definition of the term "law enforcement officer" so as to be permitted "to enter or remain in or upon premises" lawfully under Sections 3(2) a-d and 4(2) a-d. For the purpose of this bill WUTC assumes that pipeline and rail regulatory staff are not law enforcement officers. This bill may require WUTC's Assistant Attorney General staff and WUTC staff to go to court to secure search warrants consistent with Sections 3(2) b 4(2) b of the bill. Although the WUTC may conduct upwards of 50 inspections per year in pipeline and 60 in the rail program, it is assumed that many of these inspections are done pursuant to express authority given to regulatory staff by site operators and owners. In circumstances where preapproval to inspect may not be easily obtained (as in the case of a non-fire or non-medical emergency), it may be necessary to get a search warrant. Since it is very speculative to estimate the number of times WUTC would need to pursue a search warrant in any given period, a conservative estimate of \$5,000 a year is used to cover Assistant Attorney General Costs and WUTC staff effort.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

It is very speculative to estimate the number of times WUTC would need to pursue a search warrant in any given year. Therefore, a conservative estimate of \$5,000 a year is used to cover Assistant Attorney General Costs and WUTC staff effort.

Benefits are calculated at 25% of salaries

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years					
A-Salaries and Wages	2,311	2,311	4,622	4,622	4,622
B-Employee Benefits	578	578	1,156	1,156	1,156
C-Personal Service Contracts					
E-Goods and Services	2,111	2,111	4,222	4,222	4,222
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
<b>Total:</b>	\$5,000	\$5,000	\$10,000	\$10,000	\$10,000

#### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2004	FY 2005	2003-05	2005-07	2007-09
Director, Administrative Law	80,856	0.0	0.0			
Legal Secretary 1	26,988	0.0	0.0			
Sr Policy Strategist	61,596	0.0	0.0			
<b>Total FTE's</b>		0.0	0.0			0.0

### Part IV: Capital Budget Impact

### Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 235-Department of Labor and Industries
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**Part I: Estimates**

No Fiscal Impact

**Estimated Cash Receipts to:**

<b>FUND</b>					
<b>Total \$</b>					

**Estimated Expenditures from:**

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	5.0	5.0	5.0	5.0	5.0
<b>Fund</b>					
General Fund-State 001-1	113,590	98,090	211,680	196,180	196,180
Electrical License Account-State 095-1	141,988	122,613	264,601	245,226	245,226
Pressure Systems Safety Account-State 892-1	28,397	24,522	52,919	49,044	49,044
<b>Total \$</b>	283,975	245,225	529,200	490,450	490,450

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Michael Wood	Phone: 360-902-5496	Date: 03/05/2003
Agency Approval: Chuck Hitchings	Phone: 360-902-4216	Date: 03/07/2003
OFM Review: Deborah Feinstein	Phone: 360-902-0614	Date: 03/08/2003

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Sec. 1. This declares the intent to subject almost everyone to the same restrictions with regard to entry and to eliminate special immunities from prosecution for trespass.

Sec. 2. This section defines “Premises, Enter, Enters or remains unlawfully, Data, Computer program, and Access. This section defines a “law enforcement officer”, and a “state, public official, or employee of the state.”

This bill proposes to amend RCW 9A.52.010 and 1985 C 289 s 1 by amending (7) by defining “: Law enforcement officer” as a “general authority Washington peace officer,” or specially commissioned Washington peace officer,” or federal peace officer”, as defined in RCW 10.93.020. The bill amends (8) by defining “State public official or employee of the state” as any elected or appointed official or employee of a state agency or department.

Sec. 3. Amends RCW 9A.52.070 to declare that a public official or state employee “enters or remains unlawfully” under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain or upon premises:

- (a) When necessary to do so in response to a fire or a medical emergency;
- (b) When acting under authority of a warrant or other court order; or
- (c) When the official or employee is a law enforcement officer entering or remaining in or upon premises in a manner and under circumstances that are lawful pursuant to statutory authority elsewhere in this code or applicable case law, or
- (d) When the official or employee is acting under the express statutory authority granted to such official or employee elsewhere in this code to enter and remain in a building.

Sec. 4. Amends RCW 9A.52.080 to state that state public official or employee of the state who enters or remains unlawfully is guilty of first-degree criminal trespass.

Sec. 5. States that if any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

It appears that L&I has the required express statutory authority to conduct WISHA business, passage of the bill could be expected to generate increased litigation regarding that issue (indeterminate). WISHA staff already withdraws and request a warrant when employers or their agents deny entry or interfere with the conduct of the inspection.

Although we do not believe warrants would be required for all WISHA inspections, if it were necessary to obtain a warrant before commencing any inspection, the fiscal impact would be considerable (and might include the loss of the federal grant to operate an approved OSHA State Plan).

This bill limits the ability of Specialty Compliance Services inspectors, agents, and coordinators that carry out the

statutory responsibilities associated with electrical inspections, elevator/conveyance inspections, boiler/pressure vessel inspections, factory assembled structure's inspections, licensing and registration enforcement, and wage and hour enforcement.

Permitted Inspections: Several of the inspections we perform are requested by both contractors and owners of property (both residential and commercial). These inspections are typically in response to a permit that was obtained by the contractor or homeowner granting them the ability to perform the work, which will be inspected. Under this legislation we would be required to reaffirm approval if an inspection was requested by a contractor to ensure we had permission to enter the property by the property owner. This becomes increasingly difficult in situations relating to new construction when ownership is unclear or unknown. The department is estimating, based on the statutory mandates associated with the various programs, we enter private property approximately 200,000 times per year as the result of a permit. We will change our permit forms and processes to ensure consent is achieved at the time the permit is purchased. Further, we are estimating that approximately 75% of the permits we sell would achieve the permission requirements associated with this legislation. For the remaining 25 percent or 50,000 times where permission will need to be obtained, we are estimating that it will require an average of 7.5 minutes via a telephone call to the owner to attempt to obtain permission for entry, we would require an additional 3 FTEs to perform these clerical duties.

- 2 Customer Service Specialist 2s – Electrical
- .5 Customer Service Specialist 2 – Factory Assembled Structures/Elevator (General Fund-State)
- .5 Customer Service Specialist 2 - Boiler

In addition, there will be an indeterminate amount of time when we will be unable to obtain permission or a warrant or a court order will need to be sought to gain entry. If we are unable to obtain permission, a warrant, or a court order, we would be unable to conduct these inspections.

Random Contractor, Employment Standards, and Electrical Compliance: Although it is difficult to estimate, we are expecting that we would be denied entry or permission would be difficult to obtain approximately 75% of the time when conducting random compliance on-site. Currently, we conduct approximately 20,000 random compliance visits between our Contractor Registration, Employment Standards and Electrical programs. If we are denied entry or permission on 15,000 job sites, and it will require an average of 0.25 hours via a telephone call to the property owner to attempt to obtain permission for entry, we would require an additional 2 FTEs to perform these clerical duties.

- 1 Customer Service Specialist 2 – Contractor Registration (General Fund-State)
- .5 Customer Service Specialist 2 – Employment Standards (General Fund-State)
- .5 Customer Service Specialist 2 – Electrical

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	5.0	5.0	5.0	5.0	5.0
A-Salaries and Wages	148,080	148,080	296,160	296,160	296,160
B-Employee Benefits	36,428	36,428	72,856	72,856	72,856
C-Personal Service Contracts					
E-Goods and Services	97,167	58,417	155,584	116,834	116,834
G-Travel	2,300	2,300	4,600	4,600	4,600
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
<b>Total:</b>	\$283,975	\$245,225	\$529,200	\$490,450	\$490,450

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

<b>Job Classification</b>	<b>Salary</b>	FY 2004	FY 2005	2003-05	2005-07	2007-09
Customer Service Specialist 2	29,616	5.0	5.0	5.0	5.0	5.0
<b>Total FTE's</b>		5.0	5.0	5.0	5.0	5.0

**Part IV: Capital Budget Impact**

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 245-Military Department
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**Part I: Estimates**

**No Fiscal Impact**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Laura VanderMeer	Phone: (253) 512-7596	Date: 02/24/2003
Agency Approval: Frank Scoggins, MG	Phone: (253) 512-3355	Date: 02/25/2003
OFM Review: Robin Campbell	Phone: 360-902-0575	Date: 02/25/2003

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 303-Department of Health
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**Part I: Estimates**

**No Fiscal Impact**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

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- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Sheryl Reed	Phone: 360-236-3006	Date: 02/21/2003
Agency Approval: Terry Davis	Phone: 360-236-4530	Date: 02/25/2003
OFM Review: Elise Greef	Phone: 360-902-0539	Date: 02/26/2003

## **Part II: Narrative Explanation**

### **II. A - Brief Description Of What The Measure Does That Has Fiscal Impact**

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Sections 1-5

Declares that all persons, except for very limited circumstances, whether government employees or private persons, be made subject to criminal trespass laws in regard to entering upon the property of another. Current laws extend special immunities from trespass laws for government employees for conducting investigations for rule violations or compliance with issued permits. This law would make them subject to trespass laws if the person is considered uninvited or unlawfully entering the property. The Division of Drinking Water envisions no fiscal impact.

### **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## **Part III: Expenditure Detail**

## **Part IV: Capital Budget Impact**

## **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 405-Department of Transportation
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**Part I: Estimates**

**No Fiscal Impact**

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Check applicable boxes and follow corresponding instructions:

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- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Linda Anderson	Phone: 360-705-7306	Date: 02/24/2003
Agency Approval: Don Nelson	Phone: 360-705-7101	Date: 02/24/2003
OFM Review: Tom Saelid	Phone: 360-902-0562	Date: 02/25/2003

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 461-Department of Ecology
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

<b>FUND</b>					
<b>Total \$</b>					

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.2	0.2	0.2	0.2	0.2
<b>Fund</b>					
GF - Federal-Federal 001-2	59,117	58,595	117,712	117,190	117,190
GF - State-State 001-1	59,117	58,595	117,712	117,190	117,190
<b>Total \$</b>	118,234	117,190	235,424	234,380	234,380

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

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- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Vince Chavez	Phone: (360) 407-7544	Date: 02/26/2003
Agency Approval: Nancy Stevenson	Phone: (360) 407-7007	Date: 02/26/2003
OFM Review: Ann-Marie Sweeten	Phone: 360-902-0538	Date: 02/26/2003

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 1 of the bill states, with certain limited exceptions, that all persons, whether government employees or private persons, would be made subject to the same restrictions with regard to entering upon the property of another. The bill's intent is to eliminate special immunities from prosecution for trespass, to make all persons subject to the same law (with exceptions from uniform application of that law only for the kinds of entries onto property by law enforcement officers and government personnel as specified in the bill).

Section 2(7) adds language to RCW 9A.52.010 to include the definition of 'Law enforcement officer'.

Section 2(8) adds language to RCW 9A.52.010 to include the definition of 'State public official or employee of the state'.

Sections 3(2) and 4(2) of the bill states that a public official or employee who enters and remains on another person's property has the right to remain in or upon premises:

- (a) When necessary to do so in response to a fire or a medical emergency;
- (b) When acting under authority of a warrant or other court order;
- (c) When the official or employee is a law enforcement officer entering or remaining under circumstances that are lawful as of the effective date of this act.
- (d) When the official or employee is acting under the express statutory authority granted to such official or employee elsewhere in this code to enter and remain in a building. Even if such express statutory authority exists, prior to carrying out the statutory purpose for which entry is made, the official or employee making such entry or someone on his or her behalf shall make a reasonable attempt to notify the owner of the building as to the purpose and need for the entry.

Section 3 of the bill makes all public officials, agents, or employees subject to the requirements outlined by RCW 9A.52.070 which states that a person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building, unless the individual meets the exception criteria listed in sections 3(2) and 4(2).

Section 4 of the bill makes all public officials, agents, or employees subject to the requirements outlined by RCW 9A.52.080 which states that a person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree, unless the individual meets the exception criteria listed in sections 3(2) and 4(2).

Section 3(2) and 4(2) of the bill does not define public health and environmental emergency situations as included lawful exceptions. If the property owner where regulated activities take place, or land owner adjacent to the property, does not agree that lawful property access was indeed lawful, Ecology could be challenged for illegal trespass, thus exposing the Department and its employees to the unnecessary time and expense required to litigate the charges.

#### Background:

Under current law, Ecology employees are required to follow and have been trained in the requirements defined by Ecology's policy on Accessing Private Property. This policy requires employees to contact property owners prior to entering private property to conduct an inspection.

Under federal law, such as, Section 308 of the federal Clean Water Act (CWA), officials of federal environmental agencies have the authority upon presentation of his credentials to enter private property to conduct an inspection.

Under current law, Ecology requires that the department has right of access to private property for inspection purposes as defined as part of the permit agreement.

#### Assumptions:

Ecology would continue its practice of obtaining permission from the land owner before entering private property to conduct an inspection.

Ecology has authority under federal law, such as, (Section 308 of CWA) as a law enforcement authority, consistent with the exceptions listed in Section 2(3) of this bill.

Ecology has been delegated authority under federal law, such as, (Section 308 of CWA) to enter private property in response to an environmental emergency.

Despite Ecology's good-faith practices and authorities, this bill would result in increased litigation.

As a result of this bill, the need to obtain search warrants would be necessary. Ecology has authority under federal law, such as, (Section 308 of CWA) as a law enforcement authority, to obtain a search warrant from proper authorities to enter premises in order to carry out mandated federal regulations.

Based on conversations with the Office of the Attorney General, Ecology assumes 2 litigations per region per year (8 per year statewide) and 25 warrant issuances per year.

## II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

No fiscal impact.

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

### LITIGATION COSTS:

Our assumption is that Ecology would anticipate an increase in litigation charges regarding access to private property. On this basis, Ecology assumes at a minimum of 8-litigations per year (Two litigations per year per region). Ecology estimates that it would need to expend approximately .06 FTE (Environmental Specialist 4) and .06 of an assistant attorney general to cover agency liability and associated costs. Estimates are as follows:

Attorney Time (hourly rate \$98 per hour – standard agency estimate)

2 Hrs to answer the lawsuit

20 Hrs for depositions

20 Hrs for court reporter

25 Hrs to prepare and file motions

20 Hrs to respond to written discovery

Total AGO per action  $\$8,526 \times 8 = \$68,208$  Total AGO cost per year

Staff Time (.06 FTE per year – Environmental Specialist 4)

20 Hrs per action to assist attorney, respond to discovery, give depositions, attend hearing  $\times 8 = 160$  hrs per yr

Salaries and Wages are calculated at Range 55 Step K

Travel expenditures are calculated at the agency average of \$1,461 per FTE per year ( $1,461 \times .06 = \$88$ )

Goods and Services are calculated at the agency average of \$3,690 per FTE per year ( $3,690 \times .06 = \$221$ )

Agency overhead (39.7% of direct salaries and benefits) approximately \$1,530 per year ( $3,854 \times .397 = \$1,530$ )

Equipment calculated at the agency average of \$5,801 per FTE for initial year only ( $5,801 \times .06 = \$348$ )

Total Ecology cost per year = \$5,693

**WARRANT COSTS:**

Our assumption is that Ecology would anticipate an issuance of 25 search warrants statewide per year to access private property. Ecology estimates that it would need to expend approximately .12 FTE (Environmental Specialist 4) and .12 of an assistant attorney general to cover warrant associated costs. Estimates are as follows:

Attorney Time (hourly rate \$98 per hour – standard agency estimate)  
 10 Hrs detail orientation and affidavit preparation  
 2 Hrs court time to obtain warrant  
 \$100 Supreme Court filing fee

Total AGO per action  $(\$1,176 + \$100) \times 25 = \$31,900$  Total AGO cost per year

Staff Time (.12 FTE per year – Environmental Specialist 4)  
 10 Hrs per action to assist attorney in detail orientation, and affidavit preparation  $\times 25 = 250$  hrs per yr  
 Salaries and Wages are calculated at Range 55 Step K  
 Travel expenditures are calculated at the agency average of \$1,461 per FTE per year  $(1,461 \times .12 = \$175)$   
 Goods and Services are calculated at the agency average of \$3,690 per FTE per year  $(3,690 \times .12 = \$443)$   
 Agency overhead (39.7% of direct salaries and benefits) approximately \$1,020 per year  $(7,710 \times .397 = \$3,061)$   
 Equipment calculated at the agency average of \$5,801 per FTE for initial year only  $(5,801 \times .12 = \$696)$

Total Ecology cost per year = \$11,389

**FTE Detail:**

Salaries and Wages Detail: Direct program salaries are calculated at step K.

Employee Benefits for direct program staff are calculated at the agency average of 20.9% of salaries.

Goods and Services are calculated at the agency average of \$3,690 per direct FTE. Standard agency administrative overhead costs are also included.

Travel Expenditures are calculated at the agency average rate of \$1,461 per direct program FTE.

Equipment Detail: \$5,801 for start-up equipment is budgeted for each new direct FTE, based on current costs for an office chair, 1/5 motor pool vehicle, and basic computer equipment.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.2	0.2	0.2	0.2	0.2
A-	9.564	9,564	19,128	19,128	19,128
B-	2.000	2,000	4,000	4,000	4,000
C-					
E-	105.363	105,363	210,726	210,726	210,726
G-	263	263	526	526	526
J-	1.044		1,044		
N-					
P-					
S-					
<b>Total:</b>	\$118,234	\$117,190	\$235,424	\$234,380	\$234,380

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

<b>Job Classification</b>	<b>Salary</b>	FY 2004	FY 2005	2003-05	2005-07	2007-09
Environmental Spec 4	53,136	0.2	0.2	0.2	0.2	0.2
<b>Total FTE's</b>		0.2	0.2	0.2	0.2	0.2

**Part IV: Capital Budget Impact**

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 477-Department of Fish and Wildlife
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**Part I: Estimates**

**No Fiscal Impact**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Lembit Ratassepp	Phone: 360-902-2447	Date: 02/24/2003
Agency Approval: James Lux	Phone: 360-902-2444	Date: 02/26/2003
OFM Review: Jim Skalski	Phone: 360-902-0654	Date: 02/26/2003

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 490-Department of Natural Resources
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

<b>FUND</b>					
<b>Total \$</b>					

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	2.6	2.6	2.6	2.6	2.6
<b>Fund</b>					
General Fund-State 001-1	132,000	132,000	264,000	264,000	264,000
Resources Management Cost Account-State 041-1	18,000	18,000	36,000	36,000	36,000
Forest Fire Protection Assessment Account-Non-Appropriated 190-6	11,000	11,000	22,000	22,000	22,000
<b>Total \$</b>	161,000	161,000	322,000	322,000	322,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: James Blake	Phone: (360) 902-1279	Date: 02/27/2003
Agency Approval: Pat McElroy	Phone: (360) 902-1000	Date: 02/28/2003
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 03/03/2003

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 1. Removes the special immunity from prosecution from trespass currently afforded to government officials. This requirement will increase the amount of time needed by department officials seeking permission to conduct inspections.

Section 2. Limits license afforded to the provider (DNR issues Forest Practices Permits, Burning Permits, Surface Mining Permits) to enter or remain on the portion of the property that pertains to a service, permit, certificate or license. This may preclude license to conduct inspections on operations where no permit was issued.

Section 4 allows state employees acting under express statutory authority to enter upon the premises of another only after making a reasonable attempt to notify the landowner of the reason and need for entry. The bill would require that any employee of the state obtain permission from the property owner or obtain a search warrant if unable to get permission from the property owner prior to entering onto private property or structures

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Coordinating the entry onto private property is already accomplished to a certain degree in the agency's Aquatic Resources science section, responsible for nearshore inventory and eelgrass studies. However, to meet the requirements of the proposed bill, staff time would increase by approximately 4 staff months, doubling the amount of time spent on notification now. The notification consists of letters written to property owners as well as phone calls to the owners that do not respond by mail. Each project run by the science section attempts to conduct sampling at roughly 500 sites to ensure a statistically valid sample which requires contacting the owners of all of those sites. By cutting down on the number of sample sites or limiting the sample sites to state-owned lands, the data produced would not be scientifically valid. The Science section usually operates 3 or 4 projects at any one time. It is estimated that this extra notification time would require 0.3 FTE per year of a Land Technician 2's time.

DNR processes approximately 6500 Forest Practices Applications per year (5 year average). The provisions included in this bill will result in the need for additional staff time to deal with seeking access permission for operations under permit. In addition, permission will be required to enter onto private land to inspect forest practices operations where no permit has been issued. The extra time needed for seeking these permissions is estimated to require 2 FTE's per year of a Forester 1's time.

Attempting to notify each landowner whose land we cross as part of our routine duties will require a additional time for field staff to identify whose land they may be crossing while accomplishing their duties and to make an attempt to contact the landowner. The extra time needed for these routine contacts is estimated to require 0.3 FTE's per year of a Forester 2's time.

Salaries and benefits are estimated at agency pay and benefit rates for the job classes mentioned.

Goods and services and travel costs are based on agency averages per FTE.

Intra-agency reimbursements are calculated at 19.3 percent of salaries, benefits, goods and services, and travel. This cost is added to cover agency administration. Although no administration staff will be added as a result of this bill, the prorated share of agency funds supporting these costs will increase.

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	2.6	2.6	2.6	2.6	2.6
A-Salaries and Wages	92,000	92,000	184,000	184,000	184,000
B-Employee Benefits	25,000	25,000	50,000	50,000	50,000
C-Personal Service Contracts					
E-Goods and Services	7,000	7,000	14,000	14,000	14,000
G-Travel	11,000	11,000	22,000	22,000	22,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	26,000	26,000	52,000	52,000	52,000
<b>Total:</b>	<b>\$161,000</b>	<b>\$161,000</b>	<b>\$322,000</b>	<b>\$322,000</b>	<b>\$322,000</b>

#### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2004	FY 2005	2003-05	2005-07	2007-09
Forester 1	34,932	2.0	2.0	2.0	2.0	2.0
Forester 2	39,492	0.3	0.3	0.3	0.3	0.3
Land Technician 2	31,740	0.3	0.3	0.3	0.3	0.3
<b>Total FTE's</b>		<b>2.6</b>	<b>2.6</b>	<b>2.6</b>	<b>2.6</b>	<b>2.6</b>

### Part IV: Capital Budget Impact

### Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 495-Department of Agriculture
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**Part I: Estimates**

No Fiscal Impact

**Estimated Cash Receipts to:**

<b>FUND</b>					
<b>Total \$</b>					

**Estimated Expenditures from:**

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	1.0	1.0	1.0	1.0	1.0
<b>Fund</b>					
General Fund-State 001-1	390,288	390,288	780,576	780,576	780,576
<b>Total \$</b>	390,288	390,288	780,576	780,576	780,576

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/21/2003
Agency Preparation: Mary Toohey	Phone: 360-902-1907	Date: 02/27/2003
Agency Approval: Mark Johnson	Phone: 360-902-1986	Date: 02/28/2003
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 03/03/2003

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill applies to all activities and to all departments of state government, except for certain police, fire, and medical emergency situations, or when acting under authority of a warrant or other court order, or when acting under express statutory authority.

With certain exceptions for activities conducted on the property of people with whom WSDA has a licensing or certification relationship, the effect of the bill would be to make it mandatory for any employee to obtain specific, usually written, permission before conducting any activity on private property.

Impacts to WSDA programs are as follows:

The bill limits the ability of state veterinarians to enter property to examine livestock in cases where the owner is unknown or unavailable to give specific consent. Preventing WSDA from access after an unsuccessful, reasonable attempt to locate the owner during a suspected outbreak of an animal disease (such as foot and mouth disease of cattle or hogs or exotic Newcastle disease of chickens and other birds) would have a potentially devastating impact on the state's livestock industry. Delays in examination, diagnosis and/or treatment due to the necessity to pursue warrants in cases where the ownership of the animals is unclear or unknown could result in loss of control of an epidemic. In addition to immediate losses to affected livestock owners, resulting quarantines would greatly reduce the ability of state livestock and animal products (i.e. eggs) producers to market their products. The projected losses for animal disease outbreaks cannot be quantified with available information.

The bill limits access to private property to survey for exotic, non-native pests (e.g. insects, plant diseases, noxious weeds, and other pests). In cases where the owner is unknown or unavailable to give specific, written consent, the effect of the bill would be to make a warrant required. Pest surveys place approximately 30,000 traps every summer, at least half of which are located on private land. Many of these properties are in residential neighborhoods, where an estimated 75% of residents are not home during the day, making an independent process for obtaining consent necessary.

The department's apple maggot survey presents additional challenges. This survey is necessary to verify the apple maggot free status of the commercial apple production regions of eastern Washington. If the necessary survey cannot be performed to international standards, foreign governments will quarantine Washington fruit and mandate additional inspections of produce at the ports, reducing market access for the state's growers and slowing traffic through the ports. In order for a survey to be valid in urban areas such as Yakima and Ellensburg, apple maggot traps must be placed in each host species tree, making it necessary for WSDA personnel to access every residential yard. If denied access it may be impossible to conduct a viable apple maggot survey.

Another area of potential impact is that if an employee cannot prove specific permission, the employee is vulnerable to criminal trespass charges. If an employee is convicted, under some circumstances there may be grounds for the employee to sue the state for damages, particularly loss of income, as a criminal conviction would restrict the employee's future employment options. This increases the liability exposure of the state. We do not have adequate information to quantify this risk at this time.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None

**II. C - Expenditures**

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

To conduct survey activities, we estimate 1 additional FTE (Survey Entomologist), \$5,000 travel per year and \$10,000 mailing and printing per year would be necessary to conduct the consent process. We estimate we would be able to obtain written consent from approximately 75% of the residents or landowners. In those cases where written consent could not be obtained, we assume we could move 50% of the trap locations to public rights of way and still maintain a viable pest survey program. This would leave 1,875 potential warrant properties. Each warrant costs \$110 filing fee and an average of \$50 per warrant of AAG time. (Costs for individual warrants are much higher. However, the economies of scale would reduce the attorney time per warrant.) The estimated warrant costs would be \$300,000.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	1.0	1.0	1.0	1.0	1.0
A-Salaries and Wages	34,932	34,932	69,864	69,864	69,864
B-Employee Benefits	9,781	9,781	19,562	19,562	19,562
C-Personal Service Contracts					
E-Goods and Services	310,000	310,000	620,000	620,000	620,000
G-Travel	5,000	5,000	10,000	10,000	10,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Administrative Costs @ 8.5%	30,575	30,575	61,150	61,150	61,150
<b>Total:</b>	<b>\$390,288</b>	<b>\$390,288</b>	<b>\$780,576</b>	<b>\$780,576</b>	<b>\$780,576</b>

**III. B - Detail:** List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2004	FY 2005	2003-05	2005-07	2007-09
Entomologist, Survey	34,932	1.0	1.0	1.0	1.0	1.0
<b>Total FTE's</b>		<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>

**Part IV: Capital Budget Impact**

None

**Part V: New Rule Making Required**

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None

# LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

<b>Bill Number:</b> 5108 P 2S SB	<b>Title:</b> Criminal trespass
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## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

Cities: Law Enforcement, city attorneys and jails

Counties: Law Enforcement, prosecutors and jails

Special Districts:

Specific jurisdictions only:

Variance occurs due to:

## Part II: Estimates

No fiscal impacts.

Expenditures represent one-time costs:

Legislation provides local option:

Key variables cannot be estimated with certainty at this time: The number of offenses under the bill

### Estimated revenue impacts to:

Jurisdiction	FY 2004	FY 2005	2003-05	2005-07	2007-09
City					
County					
Special District					
<b>TOTAL \$</b>					
<b>GRAND TOTAL \$</b>					

### Estimated expenditure impacts to:

**Non-zero but indeterminate cost. Please see discussion.**

## Part III: Preparation and Approval

Fiscal Note Analyst: Matthew Hanbey	Phone: (360) 725-5035	Date: 02/21/2003
Leg. Committee Contact:	Phone:	Date: 02/21/2003
Agency Approval: Louise Deng Davis	Phone: (360) 725-5034	Date: 03/06/2003
OFM Review: Garry Austin	Phone: 360-902-0564	Date: 03/06/2003

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

Section 2 (7) and (8) would define "law enforcement officer" and "state public official or employee of the state." A law enforcement officer would be defined as " 'a general authority Washington peace officer,' or 'specially commissioned Washington peace officer,' or 'federal peace officer' as defined in RCW 10.93.020" and a state public official or employee of the state would be defined as "any elected or appointed official or employee of a state agency or department."

Section 3 would amend the offense of criminal trespass in the first degree (RCW 9A.52.070). The new language would state "... a state public official 'enters or remains unlawfully' under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in a building..." and the exceptions are listed. The offense of criminal trespass in the first degree is a gross misdemeanor.

Section 4 would amend the offense of criminal trespass in the second degree (RCW 9A.52.080). The new language would state "... a state public official 'enters or remains unlawfully' under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in a building..." and the exceptions are listed. The offense of criminal trespass in the second degree is a misdemeanor.

#### **DIFFERENCES BETWEEN THE SECOND SUBSTITUTE BILL AND THE FIRST SUBSTITUTE BILL:**

There are significant differences between the second substitute bill and the first substitute bill.

- references to county, municipal and special district officers and employees are not in the second substitute bill.
- the exceptions to "enters or remains unlawfully" are changed in the second substitute bill.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

The costs to local government under the bill are indeterminate because the number of additional criminal trespass cases under the bill is not known. Costs under the bill would be to counties and cities for law enforcement, prosecution, defense, and jails.

#### **DISCUSSION**

##### **Law Enforcement:**

According to the Washington Association of Sheriffs and Police Chiefs the bill would have a significant impact related to the criminal trespass offenses (Sections 3 and 4). The bill would affect law enforcement in at least two areas-- investigations and in acquiring warrants. The limitations put on law enforcement under the bill would hinder criminal investigations, including surveillance. If an officer would be required to seek additional warrants or court orders the officer could spend many as 4-8 hours seeking such a warrant or court order, depending on the time of day (day or night) and if it is a weekday or the weekend.

##### **Criminal/Civil Cases for State Employees:**

County prosecutors and city attorneys would be involved in criminal trespass cases for state employees under the bill. Neither city attorneys nor county prosecutors would be involved in civil cases. It is assumed public defenders would not be involved in criminal or civil cases because state employees would be represented by the Attorney General's Office or by their own counsel (Washington Defender Association).

##### **Criminal/Civil Cases for Local Law Enforcement:**

Criminal cases would mean a conflict to a county prosecutor's office or a city attorney's office: cases would require prosecution and defense from the same office. As a result a county or city would use lawyers from another county (for county cases) or from the same county (for city cases). Based on a discussion with the Pierce County Prosecutor's Office it is not clear whether or not there would be more civil cases under the bill because officers are already sued for negligence and/or for not taking reasonable care during an entry. The defense of a local law enforcement officer in a civil case would be made by the county prosecutor or the city attorney (Washington Association of Prosecuting Attorneys).

##### **Potential Costs to Prosecutors/City Attorneys for Cases against State Employees:**

-- costs to counties and cities for prosecutors/city attorneys for criminal cases under the bill are estimated to be approximately \$213/case. Costs are based on an LGFN survey of prosecutors for crimes against property.

##### **Potential Costs to Prosecutors/City Attorneys for Cases against Local Law Enforcement Officers:**

-- costs to counties and cities for prosecutors/city attorneys for criminal cases under the bill are estimated to be approximately 2 x

\$213/case = \$426/case. Costs are based on an LGFN survey of prosecutors for crimes against property. This cost (\$213) is doubled because two prosecutors or city attorneys would be required in each case.

-- costs to counties and cities for prosecutors/city attorneys for civil cases if they occur under the bill are estimated to be approximately \$37/hour x number of hours per civil case. The number of hours for a civil case of this nature is not currently known. Costs are based on LGFN salary figures for prosecutors.

#### DIFFERENCES BETWEEN THE SECOND SUBSTITUTE BILL AND THE FIRST SUBSTITUTE BILL:

-- the second substitute bill would have fewer potential cases than the first substitute bill. This is because the second substitute bill would not apply to county, city and special district officials/employees which was the case in the first substitute bill.

#### Potential Jail Costs:

The sentences for offenses under the bill are from zero days to 90 days for misdemeanors and from zero days to one year for gross misdemeanors. Jails hold offenders who serve sentences under a year so any sentence under the bill would be served jail. Jails costs are borne by counties and by cities although jail costs are primarily a county expense as cities hold only a small percentage of those jailed.

-- jail costs to local government for new sentences under the bill per offender would be approximately \$55/day times the number of days served. Costs are based on the average county bed rate.

#### Sources:

Pierce County Prosecutor's Office

Sentencing Guidelines Commission

Washington Association of Prosecuting Attorneys

Washington Association of Sheriffs and Police Chiefs

Washington Defender Association

### **C. SUMMARY OF REVENUE IMPACTS**

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

None.